

REMARKS

In this Amendment, Applicant has added Figure 1A to show a computer network suitable for implementing the claimed point of sale system. The specification has also been amended at page 2, line 25 to page 2, line 26 and at page 5, line 1 to page 5, line 18 to include a reference to and description of the new figure. No new matter has been added. Accordingly, reconsideration and withdrawal of the Examiner's objection to the drawings is respectfully requested.

In addition, Claim 30 has been withdrawn from prosecution following Applicant's election of Claims 1-29. Claims 1, 2, 13 and 19 have been amended and new claims 31-52 have been added. No claims have been canceled. Thus, claims 1-52 remain pending in the application.

As requested by the Examiner, Applicant is also submitting herewith a response to the requirement for information.

Rejection of Claims 1-29 Under 35 U.S.C. § 101

The Examiner has rejected Claims 1-29 under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Reconsideration and withdrawal of the rejection is respectfully requested.

As amended, independent Claims 1-29 recite a point of sale system that is operatively coupled to the internet. Similarly, newly added Claims 31-41 recite point of sale system

comprising a computer-server operatively coupled to the internet, and newly added Claims 42-52 recite a point of sale system comprising an internet-based browser system.

35 U.S.C. § 101 provides that "Whoever invents or discovers any new and useful process . . . or any new and useful improvement thereof may obtain a patent therefore, subject to the conditions and requirements of this title." Further, a statutory "process" encompasses "[a] process, art or method" 35 U.S.C. § 100(b).

The Examiner contends that original Claims 1-29 were directed to non-statutory subject matter in that they were allegedly "not concrete or tangible." According to the Examiner, an "explicit recitation of some nexus to technology is required" Applicant has amended claims 1-29 to indicate that the claimed point of sale system is operatively coupled to the internet. Thus, a nexus to technology has been recited. New claims 31-52 also recite a nexus to technology.

Notwithstanding the foregoing amendments, Applicant respectfully submits that the Examiner has misapplied the law by asserting that the lack of computer hardware limitations renders the claims insufficiently concrete and tangible. Federal Circuit precedent makes clear that the physical limitations, such as computer hardware, are not required for claims to be sufficiently, "useful, concrete, and tangible."

The basis of the Examiner's rejection was specifically rejected by the Federal Circuit in AT&T Corp. v. Excel

Communications, 172 F.3d 1352, 1357 (Fed. Cir. 1999). In AT&T, the claims at issue were directed to a telecommunications method utilizing a message record for long-distance telephone calls which was enhanced by the addition of a primary interexchange carrier ("PIC") indicator. Id. at 1353. The claims were directed only to a message record--i.e., a data structure--and did not require any hardware limitations. Id. at 1354. Nevertheless, the Federal Circuit found that "[t]he PIC indicator represents information about the call recipient's PIC, a useful, non-abstract result that facilitates differential billing of long distance calls" Id. at 1358. As a result, the Court held that "all the claims fall comfortably within the broad scope of patentable subject matter under § 101." Id. at 1361. The Court specifically rejected the defendant's contention that the asserted claims were unpatentable because they lacked physical limitations, holding that "this type of physical limitations analysis seems of little value." Id. at 1359.

The present application is indisputably directed to a concrete, tangible, and useful application, the reservation and rental of equipment. Thus, contrary to the Examiner's assertion, the recitation of computer hardware or network limitations in Applicant's claim is not necessary to satisfy 35 U.S.C. § 101, and the rejection should be withdrawn.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record and are in condition for allowance and such action is earnestly solicited at the earliest possible date.

Respectfully submitted,

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